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January 2, 2002

EPA Region 5 Records Ctr.



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**BY TELECOPY**

Mary L. Fulghum, Esq.  
Associate Regional Counsel, Region 5  
U.S. Environmental Protection Agency  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Re: **GMO Site, 341 East Ohio Street, Chicago, Illinois**

Dear Mary:

As we discussed this morning, enclosed is a copy of the letter dated December 21, 2001 from James Montana of our firm to Renee Cipriano, Director of the Illinois Environmental Protection Agency ("IEPA"), relating to the GMO Site. Specifically, the letter requests IEPA's concurrence that there is no state law impediment to leaving nonradiological soils or fill materials containing pesticides at the GMO Site in connection with the cleanup of the radiological materials. Please call me after you have reviewed this letter so that we can coordinate a telephone conference with Bill Ingersoll of IEPA who called earlier this week to discuss the enclosed letter.

Very truly yours,

Timothy Ramsey

JTR:mmz  
Enclosure

cc: Gaylene Vasaturo, Esq. (w/enc.) (by facsimile)  
Mr. Terry A. McKay (w/out enc.)  
Mr. Thomas J. Pabian (w/out enc.)  
James S. Montana, Esq. (w/out enc.)  
Steven L. Loren, Esq. (w/out enc.)

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## WRITER'S INFORMATION:

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December 21, 2001

**VIA OVERNIGHT COURIER**

Ms. Renee Cipriano, Director  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Springfield, Illinois 62794-9276

Re: **GMO Site, 341 East Ohio Street, Chicago, Illinois**

Dear Renee:

Our client Teachers' Retirement System of the State of Illinois, a pension fund created under Illinois statutes ("TRS"), has previously acquired by deeds in lieu of foreclosure a parcel of vacant real estate comprising approximately 2.16 acres located in the Streeterville area of Chicago with the street address of 341 East Ohio Street (the "GMO Site"). Although TRS is a secured creditor with respect to the GMO Site, TRS is in the process of performing a removal action with respect to certain radiological materials at the GMO Site in accordance with a Unilateral Administrative Order ("UAO") previously issued by the U.S. Environmental Protection Agency ("USEPA") pursuant to Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act. USEPA issued the UAO to require the cleanup of radiological materials in the Streeterville area which are residual to the former operations of Lindsay Light Company, a former manufacturer of gas lanterns, to which Kerr-McGee Chemical, LLC is the corporate successor. TRS understands that USEPA has consulted with the Illinois Environmental Protection Agency ("IEPA") with respect to the UAO. Although TRS is not a respondent to the UAO, TRS is proceeding with the removal action in accordance with the UAO. USEPA has requested that TRS provide, as a condition of USEPA's final approval of TRS' work plan, a confirmation from IEPA concerning certain pesticides which have been identified at the GMO Site, and in this letter TRS requests such confirmation from IEPA as described below.

In making the final preparations for the commencement of the removal action, TRS discovered earlier this fall certain concentrations of pesticides in a portion of the GMO Site which Velsicol Chemical Corporation ("Velsicol"), a former owner and operator of the GMO Site, used as a hazardous waste storage facility. In this regard, please note that in 1988 IEPA



P-I-P-E-R  
M-A-R-B-U-R-Y  
R-U-D-N-I-C-K  
& W-O-L-F-E

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approved the closure of that hazardous waste storage facility. One composite soil sample taken by TRS in September 2001 from a soil boring in the vicinity of Velsicol's former hazardous waste storage area indicated an exceedance over the threshold for chlordane, a pesticide, under the Toxicity Characteristic Leaching Procedure ("TCLP"). However, TRS' subsequent (and more extensive) investigations of this area in November 2001 indicated that no pesticides are in concentrations which, under the TCLP test, would cause the soils to exhibit the characteristic of toxicity under 40 C.F.R. 261.24 or 35 Ill. Admin. Code 721.124 so as to constitute hazardous waste under the Resource Conservation and Recovery Act or the Illinois Environmental Protection Act. STS Consultants, Ltd. ("STS"), TRS' environmental consultant, has advised that the subsequent and more extensive TCLP data suggest that the TCLP exceedance for chlordane in the initial composite soil sample taken in September 2001 was not representative of subsurface conditions in the area.

Based on the results of the extensive TCLP testing for pesticides in November 2001, TRS has proposed to USEPA that it will proceed with the removal action at the GMO Site in accordance with its original plan without any complications which would have resulted from the presence of hazardous wastes (for pesticides) in the vicinity of the former hazardous waste storage facility. The essential elements of this plan include the following: (i) removal of all previously identified radiological materials in excess of the radiological cleanup standard established by USEPA, (ii) excavation of the remaining soils at the GMO Site down to the native sands and radiological screening of those excavated soils in 18 inch excavation lifts, (iii) removal of all additional radiological materials which are identified in the screening process described above to the extent that the materials exceed USEPA's radiological cleanup standard and (iv) leaving at the GMO Site all other excavated soils and fill materials which are not identified as radiological materials in excess of the radiological cleanup standard. Under this approach, any soils or fill materials (including those with pesticides) in compliance with USEPA's radiological cleanup standard will be left at the GMO Site. USEPA has advised that it has not identified any requirement under federal laws or regulations which would prevent TRS from leaving at the GMO Site any soils or fill materials containing pesticides of the character identified in the vicinity of the former hazardous waste storage area which are excavated for purposes of radiological screening and are radiologically cleared. USEPA has requested that TRS obtain a similar confirmation from IEPA to the effect that there is no requirement under Illinois laws or regulations which would prevent TRS from leaving at the GMO Site any such soils or fill materials which are radiologically cleared. Accordingly, TRS requests that IEPA provide that confirmation so that the removal work at the GMO Site can proceed in accordance with the UAO.

In connection with your review of this request, we are enclosing with this letter copies of the following documents which contain information about the GMO Site:

1. Letter dated March 23, 1988 from Robert S. Thiel of Velsicol to IEPA, along with the Closure Documentation Report/Container Waste Storage Facility/Research



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Laboratory, 330 E. Grand Avenue, Chicago, IL 60611 dated February 29, 1988 prepared by TEAM, Inc.;

2. Letter dated June 29, 1988 from IEPA to Mr. Thiel confirming that the hazardous waste storage facility was approved by IEPA for closure under the approved closure plan;
3. Letter report dated October 8, 2001 prepared by STS setting forth the results of its initial investigation of the GMO Site for potential hazardous wastes, including the results of the one soil boring (identified as B-3) from which the composite soil sample showed a TCLP exceedance for chlordane;
4. Letter dated October 19, 2001 from STS which supplemented its October 8, 2001 letter report;
5. Status Report, Pesticide Investigation dated November 20, 2001 prepared by STS which contains information about the total pesticide concentrations in discrete soil samples taken from 10 soil borings in the vicinity of the former hazardous waste storage facility; and
6. Letter dated December 7, 2001 from STS setting forth the TCLP results for pesticides with respect to soil samples taken from the 10 soil borings identified in the Status Report dated November 20, 2001.

As noted above, TRS is seeking USEPA's final approval of TRS' work plan for the removal action, and USEPA has indicated that the confirmation from IEPA requested in this letter must be provided as a condition of USEPA's final approval. Because this is one of the last items to be obtained to enable TRS to proceed with the removal action, TRS would appreciate IEPA's expeditious response to this request so that TRS can proceed in the near future with the planned removal action. Thank you for your consideration.

Very truly yours,

  
James S. Montana, Jr.

JTR/tr

Enclosures

cc: Mr. William D. Seith, Deputy Director (w/encl.—by overnight courier)  
Mr. Terry A. McKay (w/out encl.)  
Mr. Thomas J. Pabian (w/out encl.)  
Steven L. Loren, Esq. (w/out encl.)  
Timothy Ramsey, Esq. (w/out encl.)